

Spencer Hosie (CA Bar No. 101777)
shosie@hosiellaw.com
Diane S. Rice (CA Bar No. 118303)
drice@hosiellaw.com
Darrell R. Atkinson (CA Bar No. 280564)
datkinson@hosiellaw.com
HOSIE RICE LLP
505 Sansome Street, Suite 1575
San Francisco, CA 94111
(415) 247-6000 Tel.
(415) 247-6001 Fax

Attorneys for Plaintiff
MASTEROBJECTS, INC.

Douglas J. Dixon, CA State Bar No. 275389
ddixon@hueston.com
Christina V. Rayburn, CA State Bar No. 255467
crayburn@hueston.com
Thomas B. King, CA State Bar No. 241661
tking@hueston.com
Neil G. Anderson, CA State Bar No. 307668
nanderson@hueston.com
Justin Sorensen
jsorensen@hueston.com
HUESTON HENNIGAN LLP
620 Newport Center Drive, Suite 1300
Newport Beach, CA 92660 Telephone: (949)
229-8640 Facsimile: (888) 775-0898

Moez M. Kaba, CA State Bar No. 257456
mkaba@hueston.com
Rami Bachour, CA State Bar No. 324844
rbachour@hueston.com
Julia Haines
jhaines@hueston.com
HUESTON HENNIGAN LLP
523 West 6th St., Suite 400
Los Angeles, CA 90014
Telephone: (213) 788-4340
Facsimile: (888) 775-0898

Attorneys for Defendant
AMAZON.COM, INC.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MASTEROBJECTS, INC.,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Case No. 3:20-cv-08103-WHA

**JOINT STATUS REPORT REGARDING
WAIVER DISPUTE**

Judge: Hon. William Alsup
Courtroom: 12, 19th Floor

Complaint Filed: May 5, 2020
Trial Date: October 17, 2022

1 Plaintiff MasterObjects, Inc. (“MasterObjects”) and Defendant Amazon.com, Inc.
2 (“Amazon”), pursuant to ECF 333, jointly submit an update regarding their progress with respect to
3 their waiver dispute:

4 1. Amazon states that shortly after the April 6, 2022 hearing on Defendant Amazon’s
5 “Motion for Terminating Sanctions Due To MasterObjects’ Unclean Hands,” MasterObjects
6 produced more than 175 additional formerly privileged documents. MasterObjects states that
7 MasterObjects produced these additional documents at Amazon’s insistence as Amazon sent long
8 lists of documents to MasterObjects representing the documents that Amazon alleged MasterObjects
9 selectively withheld; MasterObjects produced these documents to prove Amazon’s selective waiver
10 accusation false.
11

12 2. Thereafter, on Monday, April 18, 2022, pursuant to an order from the Discovery
13 Master, the parties held a substantive meet and confer to resolve outstanding issues. After that meet
14 and confer, on the same day, MasterObjects provided select additional documents and information.
15 By April 19, 2022, the parties had resolved a large number of issues, reducing their dispute to a few
16 specific items: (a) whether two attachments to produced emails should be produced; (2) whether
17 redactions in two redacted documents should be revealed; and (3) whether MasterObjects’ C.E.O.,
18 Mark Smit, should sit for further deposition.
19

20 3. The parties provided various submissions to Discovery Master McElhinny, including
21 the submission of all produced formerly privileged documents to him for his review.
22

23 4. A hearing was held before the Discovery Master on April 20, 2022, at which all
24 waiver dispute issues were resolved.

25 5. At the conclusion of the hearing, the Discovery Master provided an oral ruling for use
26 in providing this update, and stated that a short-written order would follow. The order will address
27 the following:
28

- The Discovery Master ruled as follows: “Having reviewed the record, having reviewed the transcript of the hearing before Judge Alsup, having paid special attention to the referral order, having researched [and] reviewed all of the privileged documents that were produced, I find nothing in this record to support any claims of selective withholding of privileged documents. Moreover, I don’t – I don’t actually find that that allegation was actually made by anyone [other] than Judge Alsup raising the question. I find this to be a predictable dispute over the scope of a – of an intentional waiver.”
- As to two attachments to produced emails (log entries 5504 and 5509), the Discovery Master found that the attachments should be produced and ordered their production by April 22, 2022.
- As to one of the redacted documents (MO_065759), the Discovery Master found that a less redacted version of the document should be produced, which only redacts the last four words within what was previously redacted, and ordered the production of the less redacted version by April 22, 2021.
- As to the other redacted document (MO_065803), the Discovery Master sustained MasterObjects’ redactions.
- As to the deposition of Mr. Smit, the Discovery Master ordered a further deposition, limited to 2 hours and documents produced since the close of fact discovery, to occur within the next two weeks.

6. Neither party will appeal the Discovery Master’s oral ruling, or any written order that reflects the oral ruling.

7. Amazon reserves the right, after MasterObjects’ additional production of documents and the further deposition of Mr. Smit, to request leave to supplement its motion, ECF 280, to address

the newly obtained evidence. MasterObjects states that this issue was neither raised nor briefed before the Discovery Master, and will oppose any such motion.

Dated: April 21, 2022

/s/ Spencer Hosie

SPENCER HOSIE (CA Bar No. 101777)

shosie@hosiellaw.com

DIANE S. RICE (CA Bar No. 118303)

drice@hosiellaw.com

DARRELL R. ATKINSON (CA Bar

No. 280564)

datkinson@hosiellaw.com

HOSIE RICE LLP

505 Sansome Street, Suite 1575

San Francisco, CA 94111

(415) 247-6000 Tel.

(415) 247-6001 Fax

Attorneys for Plaintiff

MASTEROBJECTS, INC.

/s/ Christina V. Rayburn

Douglas J. Dixon, CA State Bar No. 275389

ddixon@hueston.com

Christina V. Rayburn, CA State Bar No.

255467

crayburn@hueston.com

Thomas B. King, CA State Bar No. 241661

tking@hueston.com

Neil G. Anderson, CA State Bar No.

307668

nanderson@hueston.com

Justin Sorensen

jsorensen@hueston.com

HUESTON HENNIGAN LLP

620 Newport Center Drive, Suite 1300

Newport Beach, CA 92660 Telephone:

(949) 229-8640 Facsimile: (888) 775-0898

Moez M. Kaba, CA State Bar No. 257456

mkaba@hueston.com

Rami Bachour, CA State Bar No. 324844

rbachour@hueston.com

Julia Haines

jhaines@hueston.com

HUESTON HENNIGAN LLP

523 West 6th St., Suite 400

Los Angeles, CA 90014

Telephone: (213) 788-4340

Facsimile: (888) 775-0898

Attorneys for Defendant AMAZON.COM, INC.